

JOURNAL OF THE SENATE

EIGHTY-EIGHTH SESSION

SIXTEENTH DAY

STATE OF SOUTH DAKOTA
Senate Chamber, Pierre
Thursday, January 31, 2013

The Senate convened at 12:30 p.m., pursuant to adjournment, the President presiding.

The prayer was offered by the Chaplain, Pastor Paul Bly, followed by the Pledge of Allegiance led by Senate page Robert Foiles.

Roll Call: All members present.

APPROVAL OF THE JOURNAL

MR. PRESIDENT:

The Committee on Legislative Procedure respectfully reports that the Secretary of the Senate has had under consideration the Senate Journal of the fifteenth day.

All errors, typographical or otherwise, are duly marked in the temporary journal for correction.

And we hereby move the adoption of the report.

Respectfully submitted,
Corey Brown, Chair

Which motion prevailed.

COMMUNICATIONS AND PETITIONS

February 2, 2012

The Honorable Matt Michels
President of the Senate
State Capitol
Pierre, SD 57501

Dear Mr. President and Members of the Senate:

Pursuant to the provisions of Chapter 5-12 of the South Dakota Codified Laws and subject to your consent, I have the honor to inform you that I have reappointed D. J. Mertens, Lyman County, Kennebec, South Dakota, to the South Dakota Building Authority.

This appointment is effective immediately, and shall continue until January 18, 2016.

Sincerely,
Dennis Daugaard
Governor

The President announced the referral of the appointment to the Committee on State Affairs.

REPORTS OF STANDING COMMITTEES

MR. PRESIDENT:

The Committee on Appropriations respectfully reports that it has had under consideration SB 8, 9, 29, 30, and 239 and returns the same with the recommendation that said bills do pass.

Also MR. PRESIDENT:

The Committee on Appropriations respectfully reports that it has had under consideration SB 180 and returns the same with the recommendation that said bill be referred to the Committee on Local Government.

Also MR. PRESIDENT:

The Committee on Appropriations respectfully reports that it has had under consideration SB 91, 104, 123, and 124 which were tabled.

Respectfully submitted,
Deb Peters, Chair

1 Also MR. PRESIDENT:

2 The Committee on Education respectfully reports that it has had under consideration
3 SB 159 and returns the same with the recommendation that said bill do pass.

4 Also MR. PRESIDENT:

5 The Committee on Education respectfully reports that it has had under consideration SB 80
6 and HB 1012 and 1064 and returns the same with the recommendation that said bills do pass
7 and be placed on the consent calendar.

8 Also MR. PRESIDENT:

9 The Committee on Education respectfully reports that it has had under consideration the
10 nomination of Patrick L. Weber of Clay County, Vermillion, South Dakota, to the State Board
11 of Regents and returns the same with the recommendation that the Senate advise and consent
12 to the confirmation of said reappointment and place on the consent calendar.

13 Respectfully submitted,
14 J. Mark Johnston, Chair

15 Also MR. PRESIDENT:

16 The Committee on Commerce and Energy respectfully reports that it has had under
17 consideration HB 1091 and returns the same with the recommendation that said bill do pass.

18 Also MR. PRESIDENT:

19 The Committee on Commerce and Energy respectfully reports that it has had under
20 consideration HB 1051 and 1054 and returns the same with the recommendation that said bills
21 do pass and be placed on the consent calendar.

22 Also MR. PRESIDENT:

23 The Committee on Commerce and Energy respectfully reports that it has had under
24 consideration SB 119 and returns the same with the recommendation that said bill be amended
25 as follows:

119oa

1
2 On page 2, line 3, of the printed bill, delete "All".

3 On page 2, delete line 4.

4 And that as so amended said bill do pass.

5 Respectfully submitted,
6 Ried S. Holien, Chair

7 Also MR. PRESIDENT:

8 The Committee on Judiciary respectfully reports that it has had under consideration SB 174
9 and returns the same with the recommendation that said bill do pass.

10 Also MR. PRESIDENT:

11 The Committee on Judiciary respectfully reports that it has had under consideration SB 147
12 and returns the same with the recommendation that said bill be amended as follows:

13 147ra

14 On page 2 of the printed bill, delete lines 9 to 12, inclusive, and insert "

15 (f) Grandparent and grandchild; and

16 (g) Siblings, whether of the whole or half blood, including relationship through
17 adoption or marriage;".

18 And that as so amended said bill do pass.

19 Respectfully submitted,
20 Craig Tieszen, Chair

21 **MESSAGES FROM THE HOUSE**

22 MR. PRESIDENT:

23 I have the honor to return herewith SB 26 and 37 which have passed the House without
24 change.

1 Also MR. PRESIDENT:

2 I have the honor to transmit herewith HB 1048, 1052, 1059, 1062, 1081, 1085, 1099, 1107,
3 1140, 1150, 1163, 1170, and 1180 which have passed the House and your favorable
4 consideration is respectfully requested.

5 Respectfully,
6 Arlene Kvislen, Chief Clerk

7 **MOTIONS AND RESOLUTIONS**

8 SENATE PAGE RESOLUTION 2 Introduced by: Senators Adelstein; Begalka; Bradford;
9 Brown; Buhl; Ewing; Frerichs; Heineman, Phyllis; Holien; Hunhoff, Jean; Jensen; Johnston;
10 Jones; Kirkeby; Krebs; Lederman; Lucas; Maher; Monroe; Novstrup, Al; Olson, Russell;
11 Omdahl; Otten, Ernie; Peters; Rampelberg; Rave; Rhoden; Soholt; Sutton; Tidemann; Tieszen;
12 Van Gerpen; Vehle; Welke; White

13 A RESOLUTION, Expressing the appreciation and gratitude of the Senate of the Eighty-eighth
14 Legislature of the State of South Dakota to Miranda Cain, Corwin Coldman, Robert Foiles,
15 Fabio Galletta, Katie Haines, Calisandra Larson, Kay Marrs, Natasha Sund

16 WHEREAS, the above named served loyally as pages for the Senate of the Eighty-eighth
17 Legislative Session; and

18 WHEREAS, the members of the Eighty-eighth Senate express their most sincere
19 appreciation to these young people for their service to the state; and

20 WHEREAS, the members extend to these young people their wishes for every success in
21 life:

22 NOW, THEREFORE, BE IT RESOLVED, by the Senate of the Eighty-eighth Legislature
23 of the State of South Dakota, that a personal copy of this resolution be duly certified and
24 furnished to each page on this last day of service.

25 Sen Holien moved that Senate Page Resolution 2 be adopted.

26 The question being on Sen. Holien's motion that Senate Page Resolution 2 be adopted.

27 And the roll being called:

28 Yeas 35, Nays 0, Excused 0, Absent 0

1 Yeas:

2 Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien;
3 Hunhoff (Jean); Jensen; Johnston; Jones; Kirkeby; Krebs; Lederman; Lucas; Maher; Monroe;
4 Novstrup (Al); Olson (Russell); Omdahl; Otten (Ernie); Peters; Rampelberg; Rave; Rhoden;
5 Soholt; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; Welke; White

6 So the motion having received an affirmative vote of a majority of the members-elect, the
7 President declared the motion carried.

8 **FIRST READING OF HOUSE BILLS AND JOINT RESOLUTIONS**

9 HB 1048: FOR AN ACT ENTITLED, An Act to revise and repeal certain provisions
10 related to the Department of Agriculture.

11 Was read the first time and referred to the Committee on Agriculture and Natural
12 Resources.

13 HB 1052: FOR AN ACT ENTITLED, An Act to revise certain requirements for third party
14 administrators and pharmacy benefits managers.

15 Was read the first time and referred to the Committee on Commerce and Energy.

16 HB 1059: FOR AN ACT ENTITLED, An Act to repeal and revise certain obsolete and
17 unnecessary statutes and rules relating to the Department of Environment and Natural
18 Resources.

19 Was read the first time and referred to the Committee on Agriculture and Natural
20 Resources.

21 HB 1062: FOR AN ACT ENTITLED, An Act to repeal and reenact certain provisions
22 regarding forestry and fire suppression.

23 Was read the first time and referred to the Committee on Agriculture and Natural
24 Resources.

25 HB 1081: FOR AN ACT ENTITLED, An Act to specify the duration of certain municipal
26 appointments.

27 Was read the first time and referred to the Committee on Local Government.

1 HB 1085: FOR AN ACT ENTITLED, An Act to revise certain provisions concerning the
2 notice given to municipalities and counties for bingo games and lotteries.

3 Was read the first time and referred to the Committee on Local Government.

4 HB 1099: FOR AN ACT ENTITLED, An Act to authorize municipalities to pay for certain
5 services in advance.

6 Was read the first time and referred to the Committee on Local Government.

7 HB 1107: FOR AN ACT ENTITLED, An Act to revise certain provisions relating to
8 drainage utility fees in municipalities.

9 Was read the first time and referred to the Committee on Local Government.

10 HB 1140: FOR AN ACT ENTITLED, An Act to revise the schedule for payment of excise
11 taxes for farm wineries.

12 Was read the first time and referred to the Committee on Taxation.

13 HB 1150: FOR AN ACT ENTITLED, An Act to amend provisions relating to violations
14 of no contact orders.

15 Was read the first time and referred to the Committee on Judiciary.

16 HB 1163: FOR AN ACT ENTITLED, An Act to revise certain provisions related to the
17 filing of the certificate of limited partnerships.

18 Was read the first time and referred to the Committee on Judiciary.

19 HB 1170: FOR AN ACT ENTITLED, An Act to revise certain provisions for a secondary
20 election if the candidates for the United States Senate, United States House of Representatives,
21 or Governor do not receive a sufficient percentage of the votes cast during a primary election.

22 Was read the first time and referred to the Committee on State Affairs.

23 HB 1180: FOR AN ACT ENTITLED, An Act to allow veterans to receive credit for certain
24 military training and experience.

25 Was read the first time and referred to the Committee on State Affairs.

1 **SECOND READING OF CONSENT CALENDAR ITEMS**

2 SB 126: FOR AN ACT ENTITLED, An Act to revise the provisions that authorize
3 townships to combine the offices of the clerk and the treasurer.

4 Was read the second time.

5 The question being "Shall SB 126 pass?"

6 And the roll being called:

7 Yeas 33, Nays 0, Excused 2, Absent 0

8 Yeas:

9 Adelstein; Begalka; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien; Hunhoff
10 (Jean); Jensen; Johnston; Jones; Kirkeby; Krebs; Lederman; Lucas; Maher; Monroe; Olson
11 (Russell); Omdahl; Otten (Ernie); Peters; Rampelberg; Rave; Rhoden; Soholt; Sutton;
12 Tidemann; Tieszen; Van Gerpen; Vehle; Welke; White

13 Excused:

14 Bradford; Novstrup (Al)

15 So the bill having received an affirmative vote of a majority of the members-elect, the
16 President declared the bill passed and the title was agreed to.

17 SB 118: FOR AN ACT ENTITLED, An Act to provide for the issuance of a resident
18 medical license and to repeal certain resident training permits issued by the Board of Medical
19 and Osteopathic Examiners.

20 Was read the second time.

21 The question being "Shall SB 118 pass?"

22 And the roll being called:

23 Yeas 33, Nays 0, Excused 2, Absent 0

24 Yeas:

25 Adelstein; Begalka; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien; Hunhoff
26 (Jean); Jensen; Johnston; Jones; Kirkeby; Krebs; Lederman; Lucas; Maher; Monroe; Olson
27 (Russell); Omdahl; Otten (Ernie); Peters; Rampelberg; Rave; Rhoden; Soholt; Sutton;
28 Tidemann; Tieszen; Van Gerpen; Vehle; Welke; White

29 Excused:

30 Bradford; Novstrup (Al)

1 So the bill having received an affirmative vote of a majority of the members-elect, the
2 President declared the bill passed and the title was agreed to.

3 SB 204: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the
4 deposit and expenditure of tobacco settlement revenues and bond proceeds.

5 Was read the second time.

6 The question being "Shall SB 204 pass?"

7 And the roll being called:

8 Yeas 33, Nays 0, Excused 2, Absent 0

9 Yeas:

10 Adelstein; Begalka; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien; Hunhoff
11 (Jean); Jensen; Johnston; Jones; Kirkeby; Krebs; Lederman; Lucas; Maher; Monroe; Olson
12 (Russell); Omdahl; Otten (Ernie); Peters; Rempelberg; Rave; Rhoden; Soholt; Sutton;
13 Tidemann; Tieszen; Van Gerpen; Vehle; Welke; White

14 Excused:

15 Bradford; Novstrup (Al)

16 So the bill having received an affirmative vote of a majority of the members-elect, the
17 President declared the bill passed and the title was agreed to.

18 SB 120: FOR AN ACT ENTITLED, An Act to revise provisions related to consent to
19 sexual activity.

20 Was read the second time.

21 The question being "Shall SB 120 pass?"

22 And the roll being called:

23 Yeas 33, Nays 0, Excused 2, Absent 0

24 Yeas:

25 Adelstein; Begalka; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien; Hunhoff
26 (Jean); Jensen; Johnston; Jones; Kirkeby; Krebs; Lederman; Lucas; Maher; Monroe; Olson
27 (Russell); Omdahl; Otten (Ernie); Peters; Rempelberg; Rave; Rhoden; Soholt; Sutton;
28 Tidemann; Tieszen; Van Gerpen; Vehle; Welke; White

29 Excused:

30 Bradford; Novstrup (Al)

1 So the bill having received an affirmative vote of a majority of the members-elect, the
2 President declared the bill passed and the title was agreed to.

3 HB 1026: FOR AN ACT ENTITLED, An Act to comply with certain Internal Revenue
4 Code requirements relating to maximum annual benefits paid to members of the South Dakota
5 Retirement System and to provide for the update of references to the Internal Revenue Code.

6 Was read the second time.

7 The question being "Shall HB 1026 pass?"

8 And the roll being called:

9 Yeas 33, Nays 0, Excused 2, Absent 0

10 Yeas:

11 Adelstein; Begalka; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien; Hunhoff
12 (Jean); Jensen; Johnston; Jones; Kirkeby; Krebs; Lederman; Lucas; Maher; Monroe; Olson
13 (Russell); Omdahl; Otten (Ernie); Peters; Rampelberg; Rave; Rhoden; Soholt; Sutton;
14 Tidemann; Tieszen; Van Gerpen; Vehle; Welke; White

15 Excused:

16 Bradford; Novstrup (Al)

17 So the bill having received an affirmative vote of a majority of the members-elect, the
18 President declared the bill passed and the title was agreed to.

19 HB 1027: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the
20 application of the special pay retirement program of the South Dakota Retirement System.

21 Was read the second time.

22 The question being "Shall HB 1027 pass?"

23 And the roll being called:

24 Yeas 33, Nays 0, Excused 2, Absent 0

25 Yeas:

26 Adelstein; Begalka; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien; Hunhoff
27 (Jean); Jensen; Johnston; Jones; Kirkeby; Krebs; Lederman; Lucas; Maher; Monroe; Olson
28 (Russell); Omdahl; Otten (Ernie); Peters; Rampelberg; Rave; Rhoden; Soholt; Sutton;
29 Tidemann; Tieszen; Van Gerpen; Vehle; Welke; White

1 Excused:
2 Bradford; Novstrup (Al)

3 So the bill having received an affirmative vote of a majority of the members-elect, the
4 President declared the bill passed and the title was agreed to.

5 HB 1042: FOR AN ACT ENTITLED, An Act to authorize manufactured home dealers to
6 submit license fees directly to the Department of Revenue and to provide an electronic renewal
7 notice to certain dealers.

8 Was read the second time.

9 The question being "Shall HB 1042 pass?"

10 And the roll being called:

11 Yeas 33, Nays 0, Excused 2, Absent 0

12 Yeas:
13 Adelstein; Begalka; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien; Hunhoff
14 (Jean); Jensen; Johnston; Jones; Kirkeby; Krebs; Lederman; Lucas; Maher; Monroe; Olson
15 (Russell); Omdahl; Otten (Ernie); Peters; Rampelberg; Rave; Rhoden; Soholt; Sutton;
16 Tidemann; Tieszen; Van Gerpen; Vehle; Welke; White

17 Excused:
18 Bradford; Novstrup (Al)

19 So the bill having received an affirmative vote of a majority of the members-elect, the
20 President declared the bill passed and the title was agreed to.

21 HB 1043: FOR AN ACT ENTITLED, An Act to authorize the Department of Revenue to
22 establish an electronic title system for motor vehicles and to revise certain provisions regarding
23 an electronic lien filing system.

24 Was read the second time.

25 The question being "Shall HB 1043 pass?"

26 And the roll being called:

27 Yeas 33, Nays 0, Excused 2, Absent 0

1 Yeas:

2 Adelstein; Begalka; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien; Hunhoff
3 (Jean); Jensen; Johnston; Jones; Kirkeby; Krebs; Lederman; Lucas; Maher; Monroe; Olson
4 (Russell); Omdahl; Otten (Ernie); Peters; Rampelberg; Rave; Rhoden; Soholt; Sutton;
5 Tidemann; Tieszen; Van Gerpen; Vehle; Welke; White

6 Excused:

7 Bradford; Novstrup (Al)

8 So the bill having received an affirmative vote of a majority of the members-elect, the
9 President declared the bill passed and the title was agreed to.

10 **SECOND READING OF SENATE BILLS AND JOINT RESOLUTIONS**

11 SB 96: FOR AN ACT ENTITLED, An Act to exempt certain school districts from the
12 requirement to reorganize due to low enrollment.

13 Was read the second time.

14 The question being "Shall SB 96 pass as amended?"

15 And the roll being called:

16 Yeas 25, Nays 9, Excused 1, Absent 0

17 Yeas:

18 Begalka; Brown; Buhl; Ewing; Frerichs; Holien; Jensen; Johnston; Kirkeby; Krebs; Lederman;
19 Lucas; Maher; Monroe; Novstrup (Al); Olson (Russell); Omdahl; Otten (Ernie); Rampelberg;
20 Rave; Soholt; Sutton; Vehle; Welke; White

21 Nays:

22 Adelstein; Heineman (Phyllis); Hunhoff (Jean); Jones; Peters; Rhoden; Tidemann; Tieszen; Van
23 Gerpen

24 Excused:

25 Bradford

26 So the bill having received an affirmative vote of a majority of the members-elect, the
27 President declared the bill passed and the title was agreed to.

28 Sen. Olson moved that SB 139, 161, 145, 117, 146, 223, and 168 and HB 1024, 1025,
29 1019, and 1020 be deferred to Monday, February 4, the 17th legislative day.

30 Which motion prevailed.

SIGNING OF BILLS

The President publicly read the title to

SB 26: FOR AN ACT ENTITLED, An Act to update terminology for individuals with intellectual disabilities and similar terms.

SB 37: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the insurance fraud prevention unit.

HB 1021: FOR AN ACT ENTITLED, An Act to revise certain provisions relating to child support.

HB 1031: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding parole date calculation.

HB 1041: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the purchase price of rebuilt motor vehicles and to create a motor vehicle excise tax exemption for sales tax paid on parts used in rebuilt motor vehicles and vehicles manufactured by individuals.

HB 1053: FOR AN ACT ENTITLED, An Act to revise the lending limit for state chartered banks.

HB 1063: FOR AN ACT ENTITLED, An Act to repeal certain outdated and obsolete provisions regarding the Bureau of Information and Telecommunications.

And signed the same in the presence of the Senate.

Sen. Lederman moved that the Senate do now adjourn, which motion prevailed and at 1:46 p.m. the Senate adjourned.

Jeannette Schipper, Secretary